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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,182	08/27/2003	Herbert Martin	60,126-229	5241

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EXAMINER
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HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/649,182

Applicant(s)

MARTIN ET AL.

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-9-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

It is noted that in amended claim 11, the word "high" in line 4 is misspelled, and applicant may wish to correct this spelling in any response to this office action.

#### ***Claim Rejections - 35 USC § 112***

Claims 12-17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12-17 depend from claim 1 which is canceled by the amendment of August 27, 2003, and likewise claim 19 depends from canceled claim 8. Due to the fact that the claims are dependent from canceled claim the scope of the claims is not known when the subject matter from which they depend is canceled. For purposes of speedy prosecution, the examiner will examine claims 12-17 as if they depend from claim 11 instead of claim 1, and claim 19 as if it depended from claim 18 not 8. However, if this is what applicant intended the dependency to be, it is noted that claim 17 would therefore lack antecedent basis since claim 11 does not set forth the inclusion of a protective layer, such is provided in claim 12, therefore it is believed that in order to have proper antecedent basis, claim 17 should depend from claim 12, not 11.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3754

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 14-16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Crisman. The patent to Crisman discloses the recited tube for transport of a flowable material comprising a first layer 52,58 having an inner wall formed from perfluoroalkoxy (PFA) polymers which inherently would have piggable properties same as applicants in that it is formed of the same material, and with the lack of any modification mentioned to this layer, it is considered that the PFA layer would inherently have the same properties as applicants, a second layer 56,60 is also provided that is formed of low density polyethylene (LDPE), and an outer layer can also be provided 62,54 made of a polymeric material, likewise since no modification was made to the LDPE material it is considered to inherently possess the same properties as applicants including high voltage resistance including up to 30kV/mm as such is an inherent property of the material and Crisman claims the same material as applicant, and the method of forming these layers by coextrusion is also set forth.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crisman in view of Noone (673). The patent to Crisman discloses all of the recited structure with the exception of forming the second layer of two sub layers. The patent to Noone discloses that it is old and well known in the art to form tubes of a plurality of layers including an inner, second, and cover layer, or forming the second layer of two sub layers thereby providing a 4 layer structure to provide better adherence of layers and permeability resistance. It would have been obvious to one skilled in the art to modify the tube in Crisman by forming the second layer of two sub layers, as such is merely a choice of mechanical design, and an equivalent structure useable in forming tubes of multilayers where the added layer can provide beneficial connecting properties for the layers as well as permeability resistance as suggested by Noone, where such would reduce the chance of failure of the tube thereby saving costs.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crisman in view of Lyon. The patent to Crisman discloses all of the recited structure with the exception of setting forth what polymeric material is used for the outer protective layer. The patent to Lyon discloses that it is old and well known in the art to form the outer layer of a multilayer tube of various material to protect the inner layers, including polyurethane which can cover a polyolefin second layer. It would have been obvious to one skilled in the art to modify the protective polymeric film layer of Crisman by forming such of polyurethane as such is a known material in the art used for protective outer layers in tubes as

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suggested by Lyon, where such is a known material suitable for protecting intermediate polyolefin materials to prevent failure and thereby save money.

### ***Conclusion***

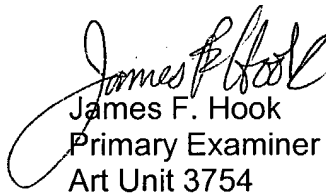
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Quigley, Wynn, Reynolds (311 and 266), Catallo, Kodama (911 and 277), and Hsich (268 and 587) disclosing state of the art multilayer tubes, some of which are used in combination with pigs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913 until November 23, 2004 at which point it will change to (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH